

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Motor Works, LLC,

NO. C 08-03608 JW

Plaintiff,

**ORDER REQUIRING FURTHER
DOCUMENTATION TO SUPPORT
PLAINTIFF'S BILL OF COST**

v.

Safer Technologies, Inc., et al.,

Defendants.

Presently before the Court is Defendants' Objections to Plaintiff's Bill of Costs. (hereafter, "Objection," Docket Item No. 111.) Defendants contend that Plaintiff insufficiently supported Plaintiff's claims for costs in this case. On June 8, 2010, the Court entered Judgment in favor of Plaintiff against Defendants Safer Technologies, Inc. and Cerma Technology, Inc. (Docket Item No. 109.) On June 22, 2010, Plaintiff filed a Bill of Costs with the Clerk of the Court. (Docket Item No. 110.)

Federal Rule of Civil Procedure 54 provides that "costs-other than attorney's fees-should be allowed to the prevailing party." Fed. R. Civ. P. 54(c). In addition, Civil Local Rule 54-1 provides that no later than 14 days after entry of judgment, a prevailing party claiming costs must serve and file a bill of costs with "[a]ppropriate documentation to support each item claimed." Civ. L.R. 54-1(a). The Bill of Costs form provides that parties should "attach . . . an itemization and documents for requested costs in all categories." See Bill of Costs: U.S. District Court for the Northern District of California. However, certain categories of costs are limited. See Civ. L.R. 54-3. For example, "reporters' transcripts" costs are recoverable in only two categories: (1) transcripts necessarily obtained for an appeal, and (2) transcripts of a statement by a Judge from the bench which is to be

reduced to a formal order prepared by counsel. Civ. L.R. 54-3(b)(1)-(2). “The cost of other transcripts is not normally allowable unless, before it is incurred, it is approved by a Judge or stipulated to be recoverable by counsel.” Civ. L.R. 54-3(b)(3).

Here, Plaintiff submitted a Bill of Costs with categories of costs, such as “fees of the Clerk” and “fees for witnesses” totaling \$9,719.87.¹ However, Plaintiff did not provide any further itemization or documentation to support each cost claimed as required by Civil Local Rule 54-1(a) and the Bill of Cost form itself. (*Id.*) Defendants object to the Bill of Cost based on lack of supporting documentation with respect to the following categories of costs: (1) fees for service of summons and subpoena; (2) fees for printed or electronically recorded transcripts; (3) fees and disbursements for printing; (4) fees for witnesses; and (5) “other” costs. (Objection at 2-3.) Additionally, Defendants object to Plaintiff’s costs under “fees for printed or electronically recorded transcripts”² and “fees for witnesses.”³


¹ (See Docket Item No. 110.) The itemization in the Bill of Costs is as follows:	
Fees of the Clerk	\$ 350.00
Fees for service of summons and subpoena	\$ 950.00
Fees for printed or electronically recorded transcripts necessarily obtained for use in the case	\$ 3161.50
Fees and disbursements for printing	\$ 461.25
Fees for witnesses	\$ 4346.00
Other Costs	\$ 451.12

² Defendants contend that the Plaintiff’s claimed costs for transcripts do not fall within one of the two permissible categories in Civil Local Rule 54-3(b). (Objection at 2.) Defendants contend that Plaintiff was required to obtain leave of the Court or prior stipulation to claim these costs. See Civ. L.R. 54-3(b). The Court has not granted Plaintiff leave to recover costs for printed transcripts and to the extent that there is no stipulation granting Plaintiff recovery for such fees, the Court finds that Plaintiff is not entitled to costs for transcripts under Civil Local Rule 54-3(b)(1) and (b)(2).

³ Defendants contends that Plaintiff’s claim of \$1,973.00 for John Murray is impermissible since John Murray is a “party to this case.” (Objection at 2-3.) The Court finds that Plaintiff is barred from receiving costs associated with John Murray because John Murray was a party to the counterclaims.

1 The Court finds that Plaintiff has not sufficiently complied with the requirements of Civil
2 Local Rule 54-1(a) and the Bill of Costs form. Plaintiff has provided no documentation to support
3 its Bill of Costs. (See Bill of Costs.) Accordingly, on or before **August 6, 2010**, Plaintiff shall
4 submit to the Clerk of Court an amended Bill of Cost form with supporting documentation and
5 detailed itemization in accordance with the terms of this Order.

6
7 Dated: July 26, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 James Mitchell Hanavan craigielaw@aol.com
3 Robert Chipley Weems rcweems@weemslawoffices.com

4 **Dated: July 26, 2010**

Richard W. Wiekling, Clerk

6 **By: /s/ JW Chambers**
7 **Elizabeth Garcia**
8 **Courtroom Deputy**